

***United States Court of Appeals
for the Second Circuit***



APPENDIX

74-1550

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74-1550

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

NO. 74-1550

THE UNITED STATES OF AMERICA,
Plaintiff-Appellee,
-against-
CARMINE TRAMUNTI, et al.,
Defendants-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

253
DEFENDANTS-APPELLANTS' JOINT APPENDIX
Vol. T(17) - Pages 2432 to 2539

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UNITED STATES OF AMERICA

vs.

CARMINE TRAMUNTI, et al.

New York, February 16, 1974,

10:00 a.m.

Trial resumed.

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(In open court; jury not present.)

THE COURT: Mr. Lopez, will you cover
for Mr. Herbert Siegal?

MR. LOPEZ: Yes.

THE COURT: Mr. Warner, will you cover for
Mr. Curley.

MR. CURLEY: I am here, your Honor.

THE COURT: Mr. Leighton, will you cover
for Mr. Dowd.

MR. SIEGEL: I am covering for Mr. King.

MR. FISHER: I am covering for Mrs. Rosner.

THE COURT: Before we go any further, I
hate Saturday duty as much as you guys.

Do you have those questions?

MR. FISHER: May I point out I will supply

1 the court with the citations in the Carrella case which
2 the secretary didn't put on here, and also I would like
3 to submit an accomplice charge right out of the language
4 of the United States vs. Gonzalez, and I will do that,
5 with the court's permission, Tuesday.

6 I served a copy on the government.

7 THE COURT: Mark it as a court's exhibit.

8 All the requests to charge will be marked
9 as court's exhibits, and if you do have an extra copy I
10 will cut it up, otherwise I will make my own copy.

11 (Court's Exhibit 65 marked.)

12 MR. WARNER: On the question of marshaling
13 of the evidence by the court at the end of the case,
14 the defense contentions are going to be submitted on
15 behalf of the defendant Ceriale.

16 Is it proper for counsel to notify the govern-
17 ment.

18 Is it your Honor's intention to inform
19 counsel?

20 THE COURT: I think it is unfair to rule on
21 requests to charge unless I do it before you sum up
22 so when you sum up, that way it makes it all the better.

23 MR. WARNER: I am wondering about being able
24 to make the same kind of statement in regard to defendants'
25

contentions with respect to marshaling the facts.

THE COURT: I am aware of that.

MR. SIEGEL: Your Honor, may I approach the bench with Mr. Lopez?

THE COURT: On the record or off?

MR. SIEGEL: On the record -- we can make it off the record.

(At the side bar; discussion off the record.)

(In open court.)

THE COURT: Bring in the jury.

MR. CURRAN: Before we do that, might I inquire as to the whereabouts of the defendant Tolopka?

THE COURT: I know about that. Mr. Richman yesterday mentioned that defendant Tolopka was taking care of his wife today, I believe that is what the problem is, and would be in at some later time today. His wife, as you may know, is paralyzed so he does have permission to take care of her.

Will you get the witness also.

(Jury present.)

H A R O L D P A N N I R E L L O resumed.

THE COURT: All right.

Mr. Panzer, you may proceed.

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H. Pannirello-cross

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CROSS EXAMINATION

BY MR. PANZER:

Q Sir, I believe you said your name was Harold Pannirello, is that correct?

A Yes.

Q Do you have a nickname?

A When I was younger, yes.

Q What was your nickname?

A Harry the Horse.

Q Harry the Horse?

A Yes.

Q Do your friends call you Harry? friends call me

A Yes.

Q Harry, as you sit here today, do you consider yourself a cooperating individual?

A Yes.

Q Back in 1970, '71, '72, and up to the latter part of '73, you were not a cooperating individual, were you, Mr. Pannirello?

A Right.

Q In fact, you were a corrupt individual, isn't that true?

MR. PHILLIPS: Objection, argumentative.

THE COURT: Yes, it is.

Q You were in the drug business, weren't you?

A Yes.

Q And you got into the drug business because you wanted to make money, right?

A Yes.

Q You had no hesitancy about that?

A No.

Q That was your primary interest, making money?

A Yes, at the time.

Q In fact, at that time you would have done almost anything to make money, isn't that true?

Do you know this little green bill; that is what you were interested in, right?

MR. PHILLIPS: Your Honor, objection. The witness didn't have a chance to answer the question.

THE COURT: I think it's all part of one question.

Answer the question.

A Yes.

Q So you started in 1970 in the drug business and you started off holding heroin, right?

A Yes.

Q No hesitation on your part, right?

A Right.

Q A little later among your transactions in 1971 you delivered a half kilogram of heroin to a fellow named Tennessee?

A Yes.

Q You did that at Bartow Avenue in the Bronx, a public park?

A Yes.

Q No hesitation about that right?

A No.

Q You wanted to make money, right?

A Right.

Q A little later on there is a second deal, with Mr. Tennessee, right, the same place, public park in the Bronx, right?

A Yes.

Q You got \$16,000?

A Yes.

Q You kept 4000 of that?

A Yes.

Q No hesitation?

A No.

Q Interested in money?

A Right.

Q While you were doing this did you have any

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H. Pannirello-cross

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remorse?

A Yes, I did.

Q You had remorse?

A Yes.

Q You felt sorry you were doing it?

A Yes.

Q Is that the truth?

A Yes, it is.

Q You are sure that is the truth?

A Positive.

Q If you had so much remorse, how come you continued in the narcotic business in 1927? Remorse didn't stop you?

A You said it yourself, the almighty buck.

Q That is what you were interested in, the almighty buck and you will do anything for the almighty buck, right?

A Right.

Q For the almighty buck back in November of 1971 you made a delivery of drugs while Barnaba was in the car, right?

A I don't recall that.

Q If I told you that Barnaba testified to that would you call him a liar?

MR. PHILLIPS: Objection.

THE COURT: Reframe the question, please.

Q November, 1971 did you go over the George Washington Bridge, to the Howard Johnson Motel, Ridgefield, New Jersey, and make a delivery of heroin?

A I don't recall.

Q But you can't say that you didn't do that?

A Right.

Q And if you did it, you did it for the almighty buck, right?

A Right.

Q I believe you testified in June of 1972 you went to Florida, right?

A Yes.

Q You went on vacation?

A Yes.

Q And the almighty buck paid for that vacation?

A Yes.

Q And that came from the drug business?

A I was working also.

Q Most of it came from the drug business, right?

A I wouldn't say that.

Q You made a trip to Canada?

1 rka

H. Pannirellò-cross

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2 A Yes.

3 Q That cost money, too, right?

4 A Yes.

5 Q Isn't it also true that in your quest for
6 money you didn't care who you used, right? Isn't that
7 true?

8 A What do you mean by that?

9 Q You just said you were interested in the al-
10 mighty buck?

11 A Yes.

12 Q And in order to make the almighty buck you
13 didn't care who you used?

14 A I will go along with that.

15 Q You used your brother-in-law, your father-
16 in-law, right?

17 A Yes.

1 kpl

Pannirello-cross

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Q You put \$25,000 in a safety-deposit box in their

3

name?

4

A Right.

5

Q You didn't care what happened to them as long

6

as you made your buck?

7

A Right.

8

Q You got your brother-in-law Jimmy Provitero

9

into the drug business?

10

A Right.

11

Q The almighty buck?

12

A Yes.

13

Q No hesitation?

14

A No.

15

Q Mr. Pannirello, you have an understanding with

16

the government, don't you?

17

A You might say that, yes.

18

Q The understanding that you have with the govern-

19

ment came about after you were arrested in 1973, right,

20

February of 1973, right?

21

A Yes.

22

Q 1970, you didn't run down to the U.S. Attorney's

23

office and say, "Here I am, Harry, I am ready to be your

24

boy; did you say that?

25

A No..

1 kp2

Fannirello-cross

2 Q Did you say that in 1971?

3 A No.

4 Q You didn't say that in 1972, right?

5 A Right.

6 Q 1973, you said it?

7 A Yes.

8 Q After you were arrested?

9 A Yes.

10 Q 1970, 1971, 1972, you were too interested in
11 making a buck to be a cooperating individual, right?

12 A Right.

13 Q January 3, 1973, you met an undercover agent?

14 A Yes.

15 Q He used the name Al, right?

16 A Yes.

17 Q And this was in Ridgefield Park, New Jersey?

18 A Yes.

19 Q When you met this individual, he was with a
20 fellow named Tennessee, right?

21 A Yes.

22 Q And you knew Tennessee because you had delivered
23 to him in a public park on Bartow Avenue on a prior
24 occasion?

25 A Yes.

1 kp3

Pannirello-cross

2 Q And you started talking to Tennessee?

3 A Yes.

4 Q And you said to Tennessee, "I could get you all
5 the drugs you want," right?

6 A I don't recall saying that.

7 Q If I told you that an agent of the United States
8 Government testified to that yesterday, would you say you
9 said it?

10 MR. PHILLIPS: Objection.

11 THE COURT: Sustained.

12 Q Are you calling that agent a liar?

13 MR. PHILLIPS: Objection.

14 THE COURT: Sustained.

15 Q You can't say that you didn't say that, right?

16 MR. PHILLIPS: Objection.

17 THE COURT: I will permit it.

18 Q Will you answer my question, sir?

19 A Excuse me.

20 THE COURT: It is kind of a double negative, but
21 go ahead.

22 Read the question.

23 (Question read.)

24 A Right.

25 Q Then Tennessee said, "Well, I don't want to do
any deals now, maybe you could do a deal with my friend

1 kp4 Pannirello-cross

2 Al?

3 A Yes.

4 Q And you proceeded to start to make a deal with

5 Al?

6 A Yes.

7 Q You didn't know he was an undercover agent?

8 A Right.

9 Q You were interested in making money?

10 A Yes.

11 Q You worked out a deal with this agent, right?

12 A Yes.

13 Q You were going to give him a quarter kilogram of
14 heroin, he was going to give you \$9500?

15 A Yes.

16 Q You were to give him the first quarter of ki on
17 consignment?

18 A Yes.

19 Q That means you were going to give him the drugs,
20 he was going to examine them and if he found them to his
21 satisfaction, he was going to pay you at a subsequent time,
22 right?

22 A Yes.

23 Q And into this wonderful deal, you dragged your
24 brother-in-law Jimmy Provitero and your brother John
25 Pannirello, right?

1 kp5 Pannirello-cross

2 A Right.

3 Q There were there, right, while this discussion
4 was going on?

5 A Yes.

6 Q During that first discussion on January 8, 1973,
7 at the motel, Ridgefield Park, New Jersey, you told the
8 agent, "You know, when we talk about drugs on the phone
9 we will use a code," right?

10 A Yes.

11 Q That was your words, not the agent's words?

12 A Yes.

13 Q And you said, "We will call 12 shirts one kilo,"
14 right?

15 A Yes.

16 Q ---You did that because you didn't want to be
17 discovered, right?

18 A Yes.

19 Q You wanted to continue making the almighty buck,
20 right?

21 A Yes.

22 Q And on January 10, 1973, you had your brother-
23 in-law, Jimmy Provitero, deliver a quarter of a kilogram
24 of heroin to an undercover agent of the United States
25 Government, right?

kp6

Pannirello-cross

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A Yes.

Q He did that, right?

A Yes.

MR. PANZER: I believe that is Exhibit 63.

Q No hesitancy about that, right?

A No.

Q You didn't say to your brother, "Don't do it,
look what we are doing"?

A Right.

THE COURT: I think you mean brother-in-law.

MR. PANZER: I think his brother was also
involved, your Honor.Q And on January 15, 1973, you received by yourself
or through your brother-in-law, \$9500, right?

A Yes.

Q That was U.S. money?

A Yes.

Q Taxpayers' money?

A Yes.

Q You took that money, right?

A Yes.

Q Spent most of that money, right?

A No.

Q You put it away somewhere?

1 kp7

Pannirello-cross

2 A No.

3 Q You gave it back to the agent, right?

4 A No.

5 Q I believe on January 15, 1973, when the \$9500
6 was delivered, you were there, right?

7 A Yes.

8 Q And you had a discussion with the agent A1 about
9 another delivery, right?

10 A Yes.

11 Q The other delivery was to involve three-eighths
12 of a kilogram of heroin, right?

13 A Yes.

14 Q And the price was to be \$14,250, right?

15 A Yes.

16 Q And the agent said to you, "Maybe you can do a
17 little better than that, maybe you could give me a half-
18 kilogram"?

19 A Yes.

20 Q And you said to him, "Well, maybe we could work
21 something out." Is that right?

22 A Yes.

23 Q "Maybe if you give me \$21,000, I can give you
24 the three-eighths of a kilogram of heroin and then we will
25 apply the difference from the \$14,250 toward the second ha.

1 kp8 Panhirello-cross

2 of kilogram; you said that on January 15, 1973?

3 A Yes.

4 Q That was your deal, right?

5 A Yes.

6 Q At that time, you explained the drug business
7 to the agent, right?

8 A You might say that.

9 Q Well, you told him you had been in the business
10 for ten years, didn't you?

11 A I don't recall telling him myself.

12 Q I show you his report and we will see if that
13 refreshes your recollection.

14 I will show you what has been previously marked
15 as Government's Exhibit 3556 which has been supplied to
16 us by the government which they are required by law to supply
17 to me, and I will ask you to read paragraphs 6 and 7 on
18 page 3 which I have underlined in red.

19 Please read it to yourself.

20 (Pause.)

21 Q Have you read it?

22 A Yes.

23 Q Does that refresh your recollection as to what
24 you told the agent?

25 A Yes.

1 kp9 Pannirello-cross

2 Q So you told the agent that you had been in the
3 drug business for ten years?

4 A Yes, but I was just boasting about it. I was
5 trying to gain his confidence.

6 Q You were lying, right?

7 A Yes.

8 Q To make money, right, you lied to make money?

9 A Yes.

10 Q You cheat to make money, right?

11 Did you also ask the agent if he had any prior
12 criminal record?

13 A Yes.

14 Q You did that because you wanted to make sure
15 you wouldn't be discovered, right?

16 A Yes.

17 Q You weren't a cooperating individual then, right?

18 A Right.

19 Q January 19, 1973, as a result of your conver-
20 sations with the agent, there was a delivery of approxi-
21 mately one pound of heroin, right out in Jersey, Ridgefield
22 Park?

23 A Yes.

24 Q You know about that?

25 Would you answer me?

1 kp10 Pannirello-cross

2 A Yes.

3 Q And the price for that was supposed to be \$14,250,
4 right?

5 A Yes. .

6 Q No hesitancy in that?

7 A No.

8 Q You wanted the almighty buck?

9 A Right.

10 Q On February 2, 1973, you send your brother-in-law
11 Jimmy Provitero back out again to the motel at Ridgefield
12 Park, right?

13 A Yes.

14 Q And he had about a quarter of a kilogram of
15 heroin?

16 A Yes.

17 Q And then he was arrested?

18 A Right.

19 Q And he was arrested by the agents?

20 A Yes.

21 Q And shortly after that you were arrested?

22 A Yes.

23 Q And your brother John Pannirello was arrested?

24 A Yes.

25 Q So all your lying didn't help with that agent?

1 kpl1

Pannirello-cross

2 MR. PHILLIPS: Objection, argumentative.

3 THE COURT: It is.

4 Q Do you remember having numerous conversations
5 with the agent over the telephone and in person concerning
6 the purchase of large amounts of heroin?

7 A Yes.

8 Q You were talking about three to five kilograms,
9 right?

10 A Yes.

11 Q And do you remember having a phone conversation
12 with the agent on or about January 30, 1973?

13 A Yes.

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2 Q And you know that conversation was taped, right?

3 A Yes.

4 Q And in that conversation, you were talking about
5 three kilograms of heroin, five kilograms of heroin, right?

6 A Yes.

7 Q And you said to the agent, "I got dynamite stuff,"
8 right?

9 A Yes.

10 Q "I got pure stuff," right?

11 A Yes.

12 Q You were saying that because you wanted to make a
13 lot of money?

14 A Yes.

15 Q Then you quoted him a price, "It's going to cost
16 you"?

17 A Right.

18 Q "It will cost you \$46,000 a ki," right?

19 A Yes.

20 Q Then you said to him, didn't you, "It's got to be
21 cash. No cash, you don't get anything," right?

22 A Yes.

23 Q That's all you were interested in, was the cash,
24 right?

25 A Yes, because I was thinking of getting out of the

business then.

Q . You didn't hesitate about that, right?

A No.

Q You wanted to make money, right?

A Yes.

Q You weren't even humanitarian about that, were you?

MR. PHILLIPS: Objection. Argumentative.

THE COURT: It is argumentative.

Q Your understanding with the government is, is it not true, if you cooperate with them, you won't go to jail, right?

A No.

Q Don't look at Mr. Phillips. Answer my questions

A No.

MR. PHILLIPS: I object to that.

THE COURT: I sustain the objection.

Q I didn't hear your answer, sir.

A I said no.

Q How much time have you spent in jail to date?

A Six days.

Q Six days. And the transactions that you participated in go back to 1970, right?

A Yes.

Q Now, you were allowed to plead guilty to two counts in Jersey, right?

A Yes.

Q Each one of those counts carries 15 years, right?

A Yes.

Q Now, there are still two open counts in New Jersey, right, because there were four counts in the indictment?

A Yes.

Q Now, you expect on the day of sentencing when Mr. Phillips gets up for you, you expect after the sentence is imposed that those two counts are going to be dismissed, don't you?

A I hope so.

Q I asked you whether it was an expectation on your part.

A Yes.

Q You are not named as a defendant in this case, right?

A Right.

Q There are 29 counts in this case, do you know that?

MR. PHILLIPS: Objection.

THE COURT: Sustained.

Q You haven't been prosecuted for income tax evasion yet, right?

A No.

Q So all the money you were interested in at that time, you know, it's pretty safe, right?

A Yes.

Q Mr. Pannirello, you testified over the past two days to at least 20 transactions involving drugs, right, at least?

MR. PHILLIPS: Your Honor, I object. I think the record speaks for itself.

THE COURT: I think it does. I think you're being prefatory.

MR. PANZER: Yes, your Honor.

THE COURT: Answer the question.

A Yes.

Q You can add pretty good. 20 times 15 is 300 years, right?

MR. PHILLIPS: Your Honor, I object. This is argumentative.

THE COURT: Yes, it is.

Q You don't expect the government to prosecute you in total prosecutions up to 300 years, do you?

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H.Pannirello-cross

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MR. PHILLIPS: Objection. Argumentative.

THE COURT: It is.

MR. PANZER: It goes to his motive, your Honor.

THE COURT: I think you have been through it
already.

Q You expect your savior, Mr. Phillips, to get
up like he gets up now and talk to the judge in Jersey,
right?

MR. PHILLIPS: I object to that, your Honor, and
I think we can do without remarks from the defendants here
which have been going on today and yesterday.

THE COURT: I didn't hear any remarks. Don't
worry, I'll take care of that. The objection is sus-
tained.

Q Now, you didn't hesitate to lie to make money,
right? Is that true?

A Right.

Q And you want this jury to believe you won't
hesitate to lie to avoid to go to jail for 300 years?

MR. PHILLIPS: Objection. Argumentative.

THE COURT: It is.

MR. PANZER: I have no further questions.

THE COURT: Mr. Sunden.

CROSS EXAMINATION

BY MR. SUNDEN:

Q Mr. Pannirello, my name is Gary Sunden and I represent the defendant William Alonzo. I want to ask you some questions. If there is anything I say that's unclear, just tell me, but if you can answer the questions yes or no, I would like you to do that. Do you understand that?

A Yes.

Q Mr. Pannirello, how old are you right now?

A 31.

Q Are you married, sir?

A Yes.

Q You mentioned the fact that you had been in the Service; is that correct?

A Yes.

Q And you stated that when you came out of the Service, you had some small amount of money; is that correct?

A Yes.

Q And in your best judgment, how much was that?

A Three or four thousand dollars.

Q Three or four thousand dollars. There came a point, eventually, when you made basically what amounts to an agreement with the government to become a cooperating individual; is that correct?

1
2 A Yes.

3 Q And when you made that agreement, you also agreed
4 to really tell the truth from that point on, is that correct,
5 Mr. Pannirello?

6 A Yes.

7 Q Was that one of the understandings that you had
8 about that agreement?

9 A Yes.

10 Q And in your mind, when did you make that agree-
11 ment?

12 A When did I make that agreement to tell the
13 truth?

14 Q When did you make the agreement to become a
15 cooperating person. Can you fix the time?

16 A Before last summer.

17 Q Before last summer?

18 A Just before last summer.

19 Q Would you say perhaps in May of '73?

20 A Possible, yes.

21 Q And subsequent to making that agreement, then,
22 you had many conversations with government agents at which
23 time you would agree; is that correct?

24 A Yes.

25 Q So, can I assume since you made that agreement

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H.Pannirello-cross

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and as you understood part of that agreement was to tell

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the truth from that point on, what information you related

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to the government's agents in those debriefings was, to

5

your mind, the truth; is that correct?

6

A Yes.

7

Q Of course, when you came here to testify, you

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took an oath to tell the truth; is that correct?

9

A Yes.

10

Q Having made an agreement with the government,

11

would I be fair in assuming that during the course of

12

those interviews, in effect, you took an oath to tell the

13

truth; is that correct?

14

A Yes.

15

THE COURT: I'm not even sure I understand that.

16

Q Would you say, Mr. Pannirello, in terms of

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your truthfulness, during the course of these debriefing

18

interviews with the government, after you had made this

19

agreement, that in terms of your truthfulness and

20

believability, that what you stated during those interviews

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is as credible as what you stated here in court under oath?

22

MR. PHILLIPS: Objection. I think it's argumenta-

23

tive. I think it's repetitious and, if nothing else,

24

confusing, your Honor.

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THE COURT: It's confusing, but under the circum-

stances, I will sustain the objection.

Q You were, I'm sure, in the course of those interviews, you were trying to tell the whole truths; is that correct?

MR. PHILLIPS: Your Honor, I object.

THE COURT: I think he answered already, he said he was trying to tell the truth from the time he agreed to cooperate. You can go on from there.

Q Mr. Pannirello, I show you what has been marked as Government's Exhibit 3567, and I ask you to look through that and tell me if you can identify that.

A Yes, I can.

Q What is that?

A Part of the debriefing.

Q Did you type this yourself?

A No.

Q Did you relate the incidents here to a government agent who took notes and then typed it?

A Right.

Q Did you have a chance to look at it after it was typed?

A Yes.

Q Are these the notes that were referred to yesterday on cross-examination, where you state with a few except

tions that you mentioned, that these notes were accurate;
is that correct?

A Yes.

Q Now, Mr. Pannirello, during the course of these
interviews in the course of your testimony, I believe you
used the phrase "There came a time when there was a dry
period," is that correct?

A Yes.

Q And can you tell me what the phrase "dry period"
means, if you used it?

A Well, there wasn't anymore goods to be had.

Q When you say "goods," you mean heroin, the
heroin you were dealing in; is that correct?

A Yes.

Q So that during the dry period, is it a fair
statement to say that you were not getting any more heroin
to sell; is that correct?

A Yes.

Q Is it a further fair statement to say that there-
fore during the dry period, you didn't have any heroin to
sell, is that also correct?

A Yes.

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Pannirello-cross

2461

Q Incidentally, Mr. Pannirello, the phrase "narcotics" has been used a lot during the course of this trial. Do you understand the phrase "narcotics" to include, as well as heroin, other drugs such as cocaine or marijuana?

A No.

Q Have you yourself ever used heroin?

A No.

Q Have you yourself ever used cocaine?

A Yes.

Q Was that during the period of time after -- did you use it during the period of time after you became a heroin pusher?

A Yes.

Q And, sir, did you also use cocaine prior to the time you became a heroin pusher?

A No.

Q I direct your attention to January 1973 and I ask you did there come a time when you met a party by the name of Al whom you later discovered to be an undercover agent?

A Yes.

Q And during the course of meeting this fellow Al did you have a discussion with him wherein you

A Yes.

A Yes.

A Correct.

A I never had it.

A I would talk about it.

**SOUTHERN DISTRICT COURT REPORTERS, U.S. COURTHOUSE
FOLEY SQUARE, NEW YORK, N.Y. CO 7-4580**

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Pannirello-cross

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A Yes.

Q That was to collect about \$20,000, is that right?

A Yes.

Q And in Al's presence, at a restaurant in Jersey City, did you state to Al and perhaps with Tennessee Dawson present, that you wanted to do something, you want to do something, if you weren't going to get that money from Al? Did you use that phrase, "do something"?

A I don't recall that phrase.

Q You don't recall that?

A No.

Q I direct your attention to Exhibit 3552, which is a report of Agent Logan, and direct your attention to the bottom part of paragraph 6 and I ask you to read that where it is marked and see if that refreshes your recollection.

A Yes, it does.

Q So did you in fact state if you didn't get this money back from Allen you wanted to do something about the fact that Allen had not paid youi this narcotics money. Did you use that phrase?

A Yes.

Q When you used that phrase that you wanted to

hpa4 Pannirello-cross

do something, to collect that money he owed you from the narcotics business, did you mean then that you wanted to employ some violence to collect that money?

A It's possible.

Q Now, Mr. Pannirello, as I understood your testimony yesterday, you testified that there came a time when there was a transaction where you allegedly sold two ounces of heroin for \$2000 to a party named in this indictment as William Alonzo, is that correct?

A Yes.

Q I believe you also testified that at the time of that transaction there were only the two of you present, you and Mr. Alonzo, is that correct?

A Yes.

Q Can you, to the best of your ability, fix a date of that transaction?

A February or March.

Q February or March of 1972, is that correct?

A Yes. I'm not certain.

Q You did testify, do you recall testifying yesterday, identifying the date of that transaction to be March? Do you recall giving that testimony under oath?

A Yes, I think so.

Q Today you are not certain about the date, is

hpa5

Pannirello-cross

1 that correct?

2 A I'm not positive.

3 Q You are not positive about the date?

4 A No.

5 Q You testified to many transactions, several
6 transactions that took place in New Jersey involving
7 Tennessee and Allen in New Jersey. Now, is it a fair
8 statement to say that Mr. Alonzo was not present at any
9 one of those transactions, is that correct?

10 A That's correct.

11 Q And you recall, do you not, having a meeting
12 with Butch Pugliese, according to your testimony, before
13 Butch went to jail, is that correct?

14 A Yes.

15 Q And during the course of that meeting, as I unde
16 stood your testimony, you said you made some sort of agree-
17 ment that Patty Dilacio was going to be the pickup man
18 for narcotics and you were going to be the delivery man
19 for customers; was that your testimony?

20 A Yes.

21 Q And further you testified that Butch Pugliese
22 allegedly gave you a series of phone numbers, is that
23 correct?

24 A Yes.

1 hpa6
2 Q Now, you were going to be the delivery man for
3 the customers, is that right?

4 A Yes.

5 Q And Butch gave you the phone numbers of parties
6 who were going to be customers, is that right?

7 A Yes.

8 Q And allegedly among those phone numbers was the
9 phone number of Mr. Dawson, Al Greene, Hattie Ware, and
10 were there any other parties whose phone number he gave
11 you?

12 A Yes.

13 Q Who else?

14 A There was Sinatra's phone number, Hattie Ware's
15 phone, Al Greene's phone number, Tennessee's phone number.

16 Q Did he give you William Alonzo's phone
17 number? Yes or no, sir.

18 A No.

19 Q Now, the day that Butch Pugliese went to jail,
20 you went to court that day and I believe you related that
21 Basil allegedly went to court that day, is that correct?

22 A Yes.

23 Q You didn't see William Alonzo in court that
24 day, did you?

25 A No.

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2 A No.

3 MR. SUNDEN: Mr. Phillips, may I see the
4 pictures that have been previously introduced?

5 (Handed to counsel.)

6 Q I direct your attention to these pictures
7 previously introduced into evidence, Government's
8 Exhibit 67, 72, 68, 70, 69 and 74, and I ask you to take
9 a look at all those pictures and tell me if in any one of
10 those pictures you see William Alonzo.

11 A No.

12 Q As I understand your testimony, you claim
13 that there was this transaction wherein you gave Mr. Alonzo
14 two ounces of heroin and you state that no one else was
15 present, is that correct?

16 A Yes.

17 Q And to be sure, Agent Logan or none of the
18 government representatives you have subsequently spoken
19 with, none of those people were present. That's for
20 sure, is that correct?

21 A Yes.

22 Q And did you make any -- immediately after that
23 event did you make any notes or transcription of that trans
24 action?

25 A No.

Q And you don't have, let's say, any of the money left from that alleged transaction or any fingerprints or any record of that transaction, do you?

A No.

Q So that all we have here in court today as a record of that transaction -- and correct me if I am wrong -- all that we have here is your word that that transaction took place, is that correct?

MR. PHILLIPS: . Objection, your Honor, summation.

THE COURT: It sounded a bit like it.

All right, let's go on.

Q Is there any other evidence that that transaction took place?

THE COURT: This witness can't answer it. Eventually after we hear all the evidence you can argue to the jury what the evidence showed.

Q Regarding this heroin that you say you sold to William Alonzo, can you tell me where did you get the particular heroin that you gave Alonzo, that you say you gave him those two ounces, where did you get that heroin from?

A I don't recall.

Q You don't recall. As I understand it, you

1 hpa9

Pannirello-cross

2 don't recall the exact date of this transaction either,
3 is that correct?

4 A That's correct.

5 Q You are not quite sure of the month of this
6 transaction, is that correct?

7 A Correct.

8 Q But you are sure that the transaction took
9 place in either February or more likely in March of '72,
10 is that correct?

11 A Correct.

12 Q Mr. Pannirello, who was the agent to whom you
13 spoke who took notes which resulted in this typewritten
14 form that I showed you earlier and you stated was accurate?
15

16 THE COURT: Government's Exhibit what?

17 MR. SUNDEN: 3567.

18 A Agent Nolan and Agent Moore.

19 Q Do you recall stating to Agent Nolan -- incidentally,
20 when did you have this conversation with
21 Agent Nolan that resulted in this transcription?

22 A Last summer some time.

23 Q This was after you agreed to cooperate, is
24 that right?

25 A Yes.

Q And could you try and fix a date a bit more precisely, if you can?

A No, I can't.

Q It was some time last summer, so that might make it, let us say, six, seven months ago, is that right?

A Yes.

Q Of course, that was after you agreed to cooperate and basically after you agreed to tell the truth, is that right?

A Yes.

Q Do you recall stating to Agent Nolan from February to June, 1972 there was a dry spell?

MR. PHILLIPS: Objection to the form of that question, your Honor, "do you recall."

MR. SUNDEN: Let me rephrase it.

Q Did you say to Agent Nolan during the course of that interview last summer, which you stated you would tell the truth, did you state from February to June, 1972 there was a dry spell?

A Yes, but there was an explanation.

Q You did say that though?

A There is an explanation for it.

Q Could you answer the question, Mr. Pannirello?

THE COURT: He already has.

A Yes.

Q Did you further say to him during this dry spell, February to June, 1972, "For Pat and myself there is nothing around"?

A Yes.

Q Did you further say also about three or four weeks after the dry spell began, the end of February, "We, Pay and myself, dropped Sinatra as a stash man," did you say that?

A Yes.

Q Do I understand your testimony correctly that here today in court you are telling us that when you used the phrase "dry spell" that means you, as a narcotics pusher, that there were no narcotics around and you didn't have any narcotics to make a sale during a dry period? Is that correct? That's what you stated earlier, is that right?

A Yes.

1 Q And you are also stating, and correct me if I am
2 wrong, you are also stating that you admitted last summer,
3 seven months ago after having promised to tell the truth
4 to Government agents, and agreeing to cooperate, you are
5 also stating that you told them then, there was a dry spell
6 from February to June of 1972?

7 A Yes.

8 Q And today in court, you are telling us, however,
9 with the same sense of wanting to be truthful, you are
10 telling us that now you recollect that with just yo u and
11 Mr. Alonzo present, you sold him two ounces of heroin; is
12 that your testimony?

13 A Yes.

14 Q Mr. Pannirello, is it fair to state that you
15 only agreed to cooperate with the Government after you
16 were caught red-handed; is that correct?

17 A Yes.

18 Q You pleaded guilty to two counts that carry up
19 to 15 years and still pending are two other counts that
20 also carry up to 15 years each: is that correct?

21 A Yes.

22 Q And you also have great expectations that you
23 are not going to be prosecuted flr any possible tax
24 violations, is that correct?

2 A I hope not.

3 Q And you also have admitted here in court, making
4 sales, perhaps, on several occasions of at least a pound of
5 heroin in New York at different times; is that correct?

6 MR. PHILLIPS: Objection. The record stands
7 for itself.

8 THE COURT: It does. It also sounds like
9 summation.

10 Ask your next question.

11 Q You are hopeful that with the intervention of
12 Mr. Phillips as necessary, that you are not going to be
13 prosecuted for the sales in New York that you have admitted
14 is that correct?

15 A Yes.

16 Q Sir, are you aware of the fact that to these
17 sales in New York, sales of a pound of heroin --

18 MR. PHILLIPS: Objection.

19 Q At the time you committed those sales, they were
20 class A felonies that carried up to life sentences?

21 THE COURT: Sustained.

22 Q When you were having your discussions regarding
23 agreeing to cooperate with the Government, was one of the
24 factors that you had considered, Mr. Pannirello, the fact
25 that if you did not choose this course of action, you were

1 ks3 H. Pannirello-cross

2 worried that you might be sentenced to a substantial amount
3 of time in jail; is that correct?

4 A Yes.

5 Q And you are, you say, 31 years old now?

6 A Yes.

7 Q Furthermore, I take it that you gave some
8 deliberation of thought to choosing to cooperate with the
9 Government, you didn't do it impulsively, is that right?

10 A Yes.

11 Q You mulled it over in your mind, is that right?

12 A Yes.

13 Q Did you also mull over in your mind the poss-
14 ibility that you felt you might receive greater consider-
15 ation from the Government -- withdrawn.

16 Did you consider the fact that if you didn't
17 have any information or a lot of information to give up,
18 that your value to the Government might be less? Did
19 that thought pass through your mind?

20 A No.

21 Q You state, altogether, with all narcotics trans-
22 actions that you have committed, you have spent six days
23 in jail, is that right?

24 A Yes.

25 Q Let me ask you this:

1 ks4 H. Pannirello-cross

2 When you agreed to cooperate with the Govern-
3 ment, you were aware -- did it pass through your mind that
4 if you agreed to cooperate with them, but you didn't name
5 anybody, that you would be of no value to them?

6 Did that thought pass through your mind?

7 A No.

8 Q Sitting here today, aside from what you already
9 testified to to the alleged transaction with Mr. Alonzo,
10 do you yourself have any other proof of that transaction
11 other than your word sitting here today?

12 MR. PHILLIPS: Objection.

13 THE COURT: I will sustain it.

14 Q But you do concede fully, Mr. Pannirello, that
15 at the time of your interviews with Agent Nolan, six or
16 seven months ago, that you did tell Agent Nolan that there
17 was a dry period from February to June, 1972, is that
18 correct?

19 MR. PHILLIPS: Objection. It has been asked
20 and answered.

21 THE COURT: It has been answered, a couple of
22 times.

23 Q Is it your testimony, Mr. Pannirello, that your
24 memory of events back in 1972 is better now in February
25 1974 than it was seven or eight months ago; is that your

ks5 H. Pannirello-cross

testimony?

A Yes.

Q Incidentally, before you came to testify here, did you discuss your testimony with agents of the Federal Government and Mr. Phillips?

A Yes.

MR. SUNDEN: Thank you.

THE COURT: Ladies and gentlemen, we will take our morning break now.

Everybody else remain seated.

(Jury leaves room.)

THE COURT: Gentlemen, I would appreciate it, and I recognize that everybody has blocked out his own cross-examination, but I would appreciate it if possible if you don't go into the same questions and answers that have already been asked by others.

Be back in about ten minutes.

(Recess.)

(In open court - jury present.)

THE COURT: Mr. King, do you wish to proceed?

CROSS EXAMINATION

BY MR. KING:

Q Mr. Pannirello, you know the first name of my client, don't you?

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H. Pannirello-cross

2477

A Yes.

Q What is it?

A John.

Q John, right?

A Yes.

Q On July 25, 1973, when you were being debriefed
did you make a statement that you know my client as Joe?
Do you remember making that statement?

A Yes.

Q And at that time, according to you, your
testimony yesterday, you had dealt with him or had kept
stuff at his house for four or five months, right?

A Yes.

Q But some eight or nine months later, you called
him Joe?

A Yes.

Q Do you see your brother Johnny in this courtroom?

A Not right now, no.

Q Have you looked?

A No.

Q Would you look?

A I don't see him.

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Q You know where he is?

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A No.

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Q Do you see him after his arrest and your arrest?

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A Yes.

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Q Where did you see him?

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A Right after we were arrested.

8

Q How soon is right after?

9

A I saw him two, three days after we were arrested.

10

Q When did you last see him?

11

A I haven't seen him for quite a while. I haven't
seen him for over a month. Maybe longer.

13

Q I am sorry.

14

A I said I haven't seen him for over a month,
maybe longer now.

16

Q You have seen him about a month, six weeks ago;
would that be a fair appraisal of what you just said?

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A Yes.

19

Q And you know, of course, he is a co-conspirator?

20

A Yes.

21

Q Do you know where he is presently?

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A No.

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Q So when you have been testifying both on direct
and cross, you knew he wouldn't be here to contradict your
testimony, is that right?

2 MR. PHILLIPS: Objection.

3 THE COURT: Sustained.

4 Q I believe both on your direct and cross-examin-
5 ation, you stated that you started your narcotic traffic
6 in about 1970, is that correct?

7 A Yes.

8 Q When you were being debriefed by Special Agent
9 Howard -- withdrawn.

10 Did you tell Special Agent Howard before you
11 knew that he was a special agent, that you had been dealing
12 in trafficking in narcotics for ten years?

13 A I don't know who the Special Agent Howard is
14 that you refer to.

15 Q When you were dealing with Special Agent Logan
16 whom you later learned was a special agent -- do you remember
17 that?

18 A Yes.

19 Q Well, there were other special agents with him
20 whose identity you didn't know; do you recall that,
21 Special Agent Logan introduced you to other people during
22 the time you were dealing with him?

23 A Yes, there was one.

24 Q One of those agents was a Mr. Howard?

25 A It might have been his name. I really don't

1 know.

2
3 Q Whether you know him by that name or not, do
4 you recall saying to any one of those people to whom you
5 had been introduced, that you had been in narcotic traffic
6 for ten years?

7 MR. PHILLIPS: Your Honor, I think this is
8 repetitious. It has been asked and answered.

9 THE COURT: Answer the question.

10 A Yes.

11 Q So when you stated yesterday that you had
12 started only in 1970, that wasn't the truth, was it?

13 A Correct.

14 THE COURT: Wait a second, I am not sure I
15 understand the question.

16 Which wasn't the truth, that he started in 1970
17 or he had been in business for ten years?

18 Q When you stated yesterday that you had started
19 your narcotic traffic in 1970, that wasn't the truth, was
20 it?

21 A It was the truth.

22 Q You have just told this Court and jury that
23 you made two statements, one that you had been in narcotic
24 traffic in 1973 -- in 1973 you said you had been in
25 narcotic traffic for ten years and here in court you stated

2 you started in 1970. Which of those statements are
3 true?

4 MR. PHILLIPS: I object to the form of the
5 question. He did not tell this Court and jury he had
6 been in narcotic traffic for ten years.

7 THE COURT: I am aware of it.

8 Objection sustained.

9 Q Did you tell Mr. Rosenberg on Friday that you
10 had taken a vacation in Florida, one vacation in Florida?

11 A Yes.

12 Q Did you forget to tell him that you immediately
13 took another one after that in Canada?

14 A Yes.

15 Q You did take a vacation immediately in Canada
16 after the one in Florida, is that not so?

17 A Yes.

18 Q As a matter of fact, your family accompanied
19 you, isn't that right?

20 A Yes.

21 Q Will you tell me briefly, I know you have
22 already testified to it, but I didn't quite get it, what
23 is your educational background, you are a graduate of
24 grammar school?

25 A Yes.

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H. Pannirello-cross

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Q Did you go to high school?

A Two years of high school.

Q Is that where your education ceased?

A Yes.

Q During the course of the time that you were attending grammar and high school, did you go to Sunday school?

A No.

Q You never went to Sunday school?

A No.

Q Did you ever read the Bible?

A Yes.

Q In the course of your reading of the Bible, did you run across the name Judas carrier?

MR. PHILLIPS: Objection.

THE COURT: Sustained.

MR. KING: No further questions.

THE COURT: Mr. Leighton?

CROSS EXAMINATION

BY MR. LEIGHTON:

Q Mr. Pannirello, your brother-in-law Jimmy was arrested February 2, 1973, is that correct?

A Yes.

Q When you were arrested?

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H. Panpirello-cross

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A The same night.

Q And you made bail six days later?

A Yes.

Q What was the bail?

A \$25,000 each.

Q You didn't have to put up the \$25,000, did you?

A No.

Q What bail did you have to put up?

A \$5000 cash plus security.

Q Was that for just yourself or for yourself,
your brother and Jimmy?

A The three of us.

Q And, thereafter, you obtained counsel?

A Yes.

Q Can you approximate when you obtained counsel?

A Immediately.

Q Would you say the next day, two days?

A Yes.

Q Was it after you obtained counsel that you
decided to cooperate with the Government?

A Yes, much after.

Q You say much after?

A Yes.

Q Did you discuss the charges in the indictment

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H. Pannirello-cross

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with your attorney?

A Yes.

Q Was your brother-in-law present?

A Yes.

Q The same attorney represented the three of you?

A Yes.

Q Did you tell your attorney the same story that you have told here in court on direct examination?

A Yes, more or less. I didn't go into detail with my attorney.

Q You testified about certain transactions on direct examination that took place here in New York City, did you not?

A Yes.

Q Did you tell your attorney about those?

A I may have.

Q Did your attorney tell you that you could be prosecuted for those charges also?

A I believe so.

Q Did you ask him how much time you could get on those charges?

A I believe so.

Q Did he tell you you could receive a life sentence if you were convicted in New York State under

1 ks8 H. Pannirello-cross

2 those charges?

3 MR. PHILLIPS: Objection.

4 THE COURT: Sustained.

5 Q Didn't he tell you that you could receive a
6 life sentence?

7 A He may have.

8 MR. PHILLIPS: Objection. It is the same
9 question.

10 THE COURT: Same question, same ruling.

11 Q How many times do you think you discussed this
12 matter with your attorney?

13 A Four, five times.

14 Q And he gave you a pretty dismal viewpoint of the
15 outcome of your case, didn't he?

16 MR. PHILLIPS: Objection. I think we are
17 also getting into a privileged area.

18 THE COURT: I am afraid we are and I am not sure
19 what "dismal" means, so I will sustain the objection.

20 Q Mr. Pannirello, what month did you first meet
21 with members of the United States Attorneys' office after
22 your arrest?

23 A Late spring, beginning of summer.

24 Q 1973?

25 A Yes.

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Q 1973?

A Yes.

Q Where was that?

A On 57th Street on the west side.

Q New York City?

A Yes.

Q Not in Newark, New Jersey?

A Correct.

Q And Agent Logan was present?

A No.

Q Agent Nolan?

A Yes.

Q Any members of the United States Attorneys'
office?

A Not at that time.

Q Were there any New York State or New York City
prosecutors there?

A No.

Q Did you go there with your attorney?

A Yes.

Q Did you go there to make a deal with the Govern-
ment?

A I went there to talk about it.

Q You went there to make a deal, didn't you, to

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H. Pannirello-cross

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2 save yourself?

3 MR. PHILLIPS: Objection. Argumentative.

4 THE COURT: Yes, it is.

5 Q Did you go to see the Government to help your-
6 self?

7 A Yes.

8 Q To help your brother?

9 A Yes.

10 Q And your brother went there to help himself?

11 A Yes.

12 Q Jimmy went there to help himself?

13 A Yes.

14 Q When did you find out that Tennessee set you up

15 A When?

16 Q Yes.

17 A The Saturday I got busted. I got busted on
18 Friday night. Saturday afternoon me and my brother talk
19 about it and we decided he was the one that set us up.

20 Q Did the agents ever tell you that Tennessee set
21 you up?

22 A Not directly.

23 Q Subsequently when you went down to help yourself
24 did the Government tell you that they had you dead, that
25 Tennessee set you up?

1 ksll

H. Pannirello-cross

2488

2 A No, we already knew it.

3 Q Did the Government sort of confirm your reason-
4 ing?

5 MR. PHILLIPS: Objection, argumentative.

6 THE COURT: Take out the "confirm" and make it
7 "said".

8 Did the Government ever say that to you?

9 A I don't know.

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2 Q Mr. Pannirello, you testified that there came
3 a time that you met a person named Allen and a person
4 named Salley in a Howard Johnson's Restaurant.

5 A Yes.

6 Q Do you remember that testimony?

7 A Yes.

8 Q You testified to that in court here?

9 A Yes.

10 Q Do you remember what your testimony was?

11 A Not exactly, no.

12 Q Do you remember when you said you met them at
13 Howard Johnson's Restaurant?

14 A Yes.

15 Q What date did you say?

16 A September or October.

17 Q That was your testimony here in court?

18 A Yes.

19 Q Were you telling the truth?

20 A Yes.

21 Q Did you say September or did you say October?

22 A Well, I thought about it after I said it.

23 I was thinking about it last night, as a matter of fact,
24 and it was after -- it was November.

25 Q So, when you testified last week that it was

September or October, you were lying to the jury, is that right?

MR. PHILLIPS: Objection.

THE COURT: Sustained.

Q Your testimony now is that you recollect it was in November?

A Yes.

Q Did you testify before the grand jury in this case?

A Yes.

Q Did you tell the truth before the grand jury?

A Yes.

Q Did you think of your testimony after you told the truth in the grand jury?

A Yes.

Q Did you ever tell anybody that you wanted to change your testimony to the grand jury?

A No.

Q Mr. Pannirello, did you tell the grand jury that you saw Alan and Salley at Howard Johnson's Restaurant in October of 1972?

A I don't recall because I just answered yes or no to the questions that were put to me.

Q Let me ask you this question:

2 Were you asked this question and did you give
3 this answer in the grand jury, page 6, line 21, on October
4 2nd, 1973:

5 "Q Did Robinson, that is, Alan and this
6 person Salley come up to New Jersey from Washington in
7 about October 1972 to pick up narcotics from you?

8 A Yes.

9 Q Were you asked that question and did you make
10 that answer?

11 A Yes.

12 Q Mr. Pannirello, you discussed this case with
13 Agent Logan where he took notes?

14 A No.

15 MR. LEIGHTON: Let me withdraw that.

16 Q You discussed this case with Agent Nolan where
17 he took notes?

18 A Yes.

19 Q And you said that that was somewhere in the
20 summer of 1973?

21 A Yes.

22 Q And in that conversation, did this meeting with
23 Alan and Salley at Howard Johnson's Restaurant come up?

24 A Yes.

25 Q You didn't tell Agent Nolan that this meeting

took place in November of 1972, did you?

A No, I don't recall.

Q Do you remember what month you told him the meeting took place?

A No, not offhand.

Q Let me show you Government's Exhibit 3568, page 7, the last paragraph and ask you if that refreshes your recollection as to what month you told Agent Nolan that this meeting took place.

A Yes.

Q What month did you tell him it took place?

A September.

Q By the way, Mr. Pannirello, Mr. Panzer asked you if you had a nickname and you said you did.

A Yes, when I was young, yes.

Q Wasn't that nickname still used a couple of years ago?

A No, to the best of my recollection, no. It hadn't been used in years.

Q What was the nickname?

A Harry the Horse.

Q Mr. Pannirello, isn't a horse street vernacular for heroin?

A It's possible.

1 hps
2 Q Mr. Pannirello, you testified that there came
3 a time when you received drugs that had an odor of vinegar;
4 is that correct?

5 A Yes.

6 Q Do you remember what month you said you received
7 those drugs when you testified here in court last week?

8 THE COURT: You don't really mean last week, do
9 you?

10 MR. LEIGHTON: A few days ago.

11 Q Two or three days ago you testified here and you
12 testified about drugs that had an odor of vinegar.

13 A Yes.

14 Q When did you receive those drugs?

15 A Around March.

16 Q That was your testimony here in court?

17 A Yes.

18 Q Did you ever tell anyone that you received the
19 drugs, these drugs with vinegar odor, those smelly drugs
20 some time other than March?

21 A Possible.

22 Q Do you have a recollection of that?

23 A Yes.

24 Q Who did you tell?

25 A I might have told Mr. Nolan.

Q What month did you tell him you received these drugs?

A When he was taking notes.

Q What month did you say you received them?

A I don't recall.

Q If I tell you that you told him the latter part of January 1972, would that refresh your recollection?

A No.

Q Let me show you pages 2, 3 and 4 of Government's Exhibit 3568, and ask you if that refreshes your recollection, to the end of the second paragraph on page 4.

A Yes.

Q What date did you tell Agent Nolan that you received those drugs?

A January.

Q Not March?

A Correct.

Q Mr. Pannirello, when you were being questioned by Agent Nolan in the summer of 1973, prior to your testimony here, did Agent Nolan show you a picture of Warren Robinson?

A Yes.

THE COURT: I am at a loss as to the date you are interested in. You said, "When you were being

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questioned by Agent Nolan" and then, prior to the testimony.

Do you mean from the point from his first questioning by Agent Nolan up until the time he came into court?

MR. LEIGHTON: That is correct, your Honor.

THE COURT: All right, answer the question.

A Yes.

MR. LEIGHTON: I have no further questions, your Honor.

THE COURT: Mr. Martin J. Siegel.

Mr. Siegel, before starting cross-examination, would you come up for just a moment.

(Mr. Siegel approached bench.)

CROSS EXAMINATION

BY MR. SIEGEL:

Q Mr. Pannirello, my name is Martin J. Siegel. I represent the accused, Mr. John Springer.

Mr. Pannirello, do you remember back in October 1973 testifying, at the grand jury, in this case?

A Yes.

Q Do you remember the testimony you gave at that grand jury pertaining to the accused, Mr. Springer?

A No, not offhand.

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H. Pannirello-cross

2496

Q Did you give any testimony pertaining to the accused, Mr. John Springer?

A I think I did.

Q This was in October of '73?

A Yes.

MR. SIEGEL: Your Honor, I make reference to document 3565, copy of the grand jury testimony of Mr. Pannirello.

Q Will you refresh your recollection and tell me what you said at that time.

Mr. Pannirello, after reviewing your grand jury testimony and refreshing your recollection, do you remember the testimony you gave against the accused John Springer?

A There was none.

Q There was none?

A I didn't see any.

Q When you just stated to the Court and jury that you remember testifying you were incorrect, as far as your recollection, is that correct?

A Yes.

Q Do you remember your testimony before the December 5th, 1973 session of the grand jury?

A Excuse me?

Q Do you remember testifying on December 5th,

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H. Pannirello-cross

2497

2 1973 before the grand jury?

3 A Yes.

4 Q Do you remember your testimony in reference to
5 the accused John Springer at that session of the grand
6 jury?

7 A No.

8 Q Did you make any reference to John Springer at
9 that time?

10 A I really don't recall.

11 Q Would you like to refresh your recollection,
12 Mr. Pannirello?

13 A Yes.

14 MR. SIEGEL: Your Honor, I am making reference
15 to 3566, Mr. Pannirello's testimony before the grand jury
16 on December 8th.

17 Q There is no testimony; is that correct?

18 A Correct.

19 Q In reference to Mr. John Springer?

20 A Correct.

21 Q You remember having several conversations with
22 Agent Logan about your involvement in narcotics?

23 A I don't understand the question.

2 24 Q Did there ever come a time when you had
25 conversations with Agent Logan of the Bureau of Narcotics

and Dangerous Drugs Agency?

A Yes, I spoke to him.

Q During those conversations did you ever make any reference to the accused John Springer at that time?

A No.

Q Approximately how far or how long before the commencement of this trial did Mr. Phillips or any Government agency show you a picture of Mr. Springer?

A I don't recall the exact date. A month or so ago, maybe.

Q About a month or so ago?

A Maybe two months.

Q But you are not sure of the exact date?

A No.

Q Or the exact month?

A Correct.

Q At the time you were shown Mr. Springer's picture, did you have words to this effect, "Here is a picture of an individual, do you know him"?

A Yes.

1
2 Q When you were shown this picture, there were
3 no other pictures being shown to you at that time, it
4 was just this one picture?

5 A I don't recall.

6 Q For how long did you look at the picture
7 before you identified the individual?

8 A A minute or so, maybe longer.

9 Q Probably a couple of minutes?

10 A Yes.

11 Q During this time when you were looking at the
12 picture but had not given an answer to Mr. Phillips, was
13 there anyone else present in the room at this time?

14 A I don't recall.

15 Q You don't recall whether there was anybody
16 else in the room, is that your answer?

17 A Yes.

18 Q Did Mr. Phillips or whoever else was present
19 at that time say, "Well, come on, don't you recognize him,
20 don't you know who he is?" words to that effect?

21 A No, I don't remember.

22 Q So your answer is you don't remember?

23 A Correct.

24 Q When you were shown a picture of Mr. Springer
25 at that time it was just this one picture you were

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H. Pannirello-cross

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2 shown, is that correct?

3 A I don't know. There may have been others.

4 Q But you don't know remember?

5 A No.

6 Q Do you know a John Barnaba?

7 A Yes.

8 Q You have testified on direct examination that
9 you had some narcotics dealings with Mr. Barnaba, is that
10 correct?

11 A Correct.

12 Q How many different narcotics transactions did you
13 have with Mr. Barnaba?

14 A One that I recall offhand.

15 Q Just one. And when was that?

16 A 1971.

17 Q Do you remember when in 1971?

18 A No.

19 Q You don't remember?

20 A No.

21 Q How long do you know Mr. Barnaba?

22 A Since 1971.

23 Q Since 1971?

24 A Yes.

25 Q When you say that you only had one transaction

1 with him some time in '71, when you don't remember, is there
2 any particular reason why you stopped dealing with Mr.
3 Barnaba?
4

5 A Yes.

6 Q What was that reason?

7 A He owed me some money and never paid me.

8 MR. KING: I didn't hear that answer. I
9 am sorry.

10 THE WITNESS: He owed me some money that
11 he never paid.

12 Q Did there ever come a time when you had con-
13 versations with other people about John Barnaba,
14 about his reputation for truth and veracity in the com-
15 munity?

16 MR. PHILLIPS: Objection.

17 THE COURT: Sustained.

18 Q Do you know who John Barnaba is?

19 A Yes.

20 Q Did there ever come a time when you had a
21 conversation with people who know Mr. Barnaba's reputation
22 of his truth and veracity?

23 MR. PHILLIPS: Objection.

24 THE COURT: Same ruling..

25 MR. SIEGEL: May I approach the bench, your

Honor?

THE COURT: Yes.

(At the side bar.)

MR. SIEGEL: Your Honor, as you can tell by my line of questioning, I am trying to establish this witness as a character witness for John Barnaba, whether it be pro or con. The witness has identified knowing the accused John Barnaba and has indicated he has discussed Mr. Barnaba with other people. I am trying to establish Mr. Barnaba's reputation for truth and veracity.

MR. PHILLIPS: I have an objection based on, first of all, one witness cannot testify about the reputation for truth and veracity of another witness, and that is basically inadmissible.

Secondly, this is outside the scope of direct examination and Mr. Siegel is making him his own witness, even assuming it to be admissible, which I don't concede.

MR. SIEGEL: Your Honor, the truth and veracity of any witness is always in issue before the court, and since on direct examination they did make reference to the fact that he did know Mr. John Barnaba, since Mr. Barnaba is a witness in this proceeding I think the issue of Mr. Barnaba's credibility can be tested by this wit-

1 witness.

2
3 Of course, if this witness has never discussed
4 the truth and veracity with other individuals then of
5 course my point would lie mute at that point.

6 THE COURT: I don't think you should go into
7 it right now.

8 MR. SIEGEL: Your Honor, is it the court's
9 ruling by not permitting it it is foreclosing my inquir-
10 ing into this particular area at a future time with this
11 witness?

12 THE COURT: Not necessarily. I take them
13 up as they come. At this time I don't think you
14 should go into it.

15 (In open court.)

16 BY MR. SIEGEL:

17 Q Mr. Pannirello, you said a situation developed
18 where Mr. Barnaba owed you certain money?

19 A Yes.

20 Q Did you ever make any attempts to collect this
21 money?

22 A Not me personally but Pat Delacio did.

23 Q Did you have success in collecting this
24 money?

25 A No.

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2 Q Why not, if you know?

3 A I was never able to get in touch with him.

4 Q Would you classify your relation with John Barna
5 as total lack of confidence on one side and absolute
6 distrust on the other side?

7 MR. PHILLIPS: Objection.

8 THE COURT: Sustained.

9 Q You have testified previously you had used
10 cocaine, is that correct?

11 A Yes.

12 Q When did you start using cocaine?

13 MR. PHILLIPS: Objection to the form of that
14 question.

15 THE COURT: I will permit. I will permit
16 it the way it is.

17 A I was never actually a user of cocaine. Once
18 in a while I would use it.

19 THE COURT: The question is when did you first
20 use it?

21 A 1972.

22 Q 1972?

23 A Yes.

24 Q Did you ever use cocaine when you were in the
25 Army?

1
2 A No.

3 Q On how many different occasions did you use
4 cocaine during the year 1972?

5 A Three or four times, five times.

6 Q Three, four, five times, is that your answer?

7 A Yes.

8 Q Under what conditions did you use cocaine?

9 A I don't understand the question.

10 Q Did you use it at a party, in a bar?

11 A Yes.

12 Q Which one is it?

13 A At Pat Dilacio's home.

14 Q Where else?

15 A At my house.

16 Q When you used it at your house what time of day
17 was this?

18 A Afternoon.

19 Q Are you guessing or do you know that for a fact?

20 A I used it in the afternoon.

21 Q I understand you are married, Mr. Panni-
22 rello?

23 A Yes.

24 Q When you used cocaine was your wife pre-
25 sent at the time?

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H. Pannirello-cross

2506

A No.

Q Do you have any children, Mr. Pannirello?

A Yes.

Q How many children do you have?

A Two.

Q Did you use it in the presence of your children?

I didn't hear your answer, Mr. Pannirello.

A No.

Q When was the last time you used cocaine?

A 1972.

Q Was that the last time you used it?

A Yes.

Q You have previously testified that you don't use heroin. Have you ever experimented with

LSD?

MR. PHILLIPS: Your Honor, I object. I think this is getting pretty far afield.

THE COURT: Yes, but I will permit it anyway.

A No.

Q Did you ever introduce anybody to the use of heroin?

A Excuse me?

1 hpa9
2 THE COURT: I don't know what that means.
3 Counselor. Do you want to reframe that question?

4 Q Did there ever come a time and place when,
5 because of your actions, a person used heroin for the
6 first time?

7 A No.

8 Q Does your wife use heroin, if you know?

9 A No.

10 Q What would be your reaction, Mr. Pannirello,
11 15 years from now if you were to find that your children
12 were addicted to heroin?

13 MR. PHILLIPS: Sustained.

14 Q Are you taking any sort of medication at this
15 time, for example, tranquilizers?

16 A No.

17 Q You have testified that you have received a
18 \$300 witness fee from the government.

19 A Yes.

20 Q When did you receive this payment?

21 A November or December.

22 Q November or December, but you are not sure of
23 the date?

24 - A Correct.

25 Q Have you received any other moneys?

A Yes, last week.

Q How much did you receive last week?

A \$250.

Q How long was that \$250 to last you?

A I couldn't say.

Q Are you authorized to receive money whenever you need it?

A No. I'm under protective custody right now.

Q How do you determine when you get the money? Do you ask for money?

A When I need some money I'll ask for it, yes. If I can get it, fine.

Q Who is paying the rent for apartment now?

A Where I'm staying now?

Q Yes, who is paying the rent.

A I am.

Q You are?

A Yes.

Q Is the government helping out in any respect?

A The government just gave me \$250. Out of that \$250 I pay my rent and I pay my food.

Q What is your rent, may I ask?

A \$20 a day.

Q \$20 a day?

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H. Pannirello-cross

2509

2 A Yes.

3 Q I was never really good in mathematics, but
4 that would come to approximately \$200 for two weeks.

5 A Correct.

6 Q When the two weeks are up do you receive more
7 money?

8 A I hope so.

9 Q How long have you been living in this
10 \$20-a-day apartment?

11 A Approximately a week.

12 MR. SIEGEL: I have nothing further of
13 this witness, your Honor.

14 THE COURT: All right. Mr. Dowd.

15 MR. DOWD: May I approach for a minute at
16 the side bar?

17 THE COURT: Yes.

18 (At the side bar.)

19 MR. PANZER: Your Honor, just as long as we
20 are here I want to move for a mistrial on the basis
21 that this witness, the question posed by co-counsel, blurted
22 out he was in protective custody. It is my feeling
23 it was not responsive to the question, highly preju-
24 dicial.

25 THE COURT: I will deny your motion.

2

(In open court.)

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CROSS EXAMINATION

4

BY MR. DOWD:

5

Q Good morning, Mr. Pannirello. I represent

6

Mr. Francis Russo.

7

You know Francis Russo for a long time, don't

8

you?

9

A Yes.

10

Q In fact, you grew up on the same block?

11

A Yes.

12

Q And for many years his family lived in the

13

building next to yours, is that correct?

14

A Yes.

15

Q On your direct testimony you described a

16

transaction between you, Mr. Dilacio and Mr. Russo in the

17

spring of '1972, is that correct?

18

A Yes.

19

Q By the spring of '72, could that have been

20

June of '72?

21

A No, before that.

22

Q May, '72?

23

A Before that.

24

Q April?

25

A April, it could have been.

Q And you also said you didn't remember what the purchase price was?

A No.

Q And you described the meeting at Mr. Dilacio's apartment, correct?

A Yes.

Q Where you were present, Mr. Russo was present and Mr. Dilacio was present, correct?

A Yes.

Q And you described a conversation between you and Mr. Russo, correct?

A Yes.

Q Concerning this transaction?

A Yes.

Q And you said that Mr. Russo received a half a kilo of heroin?

A Yes.

Q And he later gave it back to you?

A Yes.

Q And you quoted to us where he said that the person he was going to give it to didn't want it any more or didn't want it for some reason?

A Yes.

Q Mr. Pannirello, you testified before a

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H. Pannirello-cross

2512

2 grand jury on October 2, 1973, did you not?

3 A Yes.

4 Q Did you testify on that date about this
5 transaction in the spring of 1972 on October 2, 1973?

6 A I don't recall.

7 Q Let me show you Government's Exhibit 3565 for
8 identification --

9 MR. DOWD: Your Honor, this is all together.
10 I believe it's nine pages.

11 Q Would you look through those nine pages and
12 see if that refreshes your recollection about whether you
13 testified about a transaction in the spring of 1972 with
14 Mr. Russo?

15 A I don't see anything in here.

16 Q You testified before a federal grand jury in
17 December, 1973, did you not?

18 A Yes.

19 Q Did testify at that time about this transaction
20 with Mr. Russo, this alleged transaction with Mr. Russo,
21 in the spring of 1972?

22 A I don't recall.

23 Q I show you Government's Exhibit 3566 for
24 identification, consisting of two pages, and ask you to
25 read it and see if it refreshes your recollection as

to whether you testified in December, 1973 about a transaction with Mr. Russo in the spring of '72.

A There is nothing.

Q So you didn't testify about it?

A Correct.

Q You have also told us that you talked with Agent Moore or Agent Nolan on several occasions, correct?

A Yes.

Q And after these conversations they reduced these conversations to written notes then to typewritten notes, correct?

A It was written notes, a tape recorder they used, and then to type, yes.

Q On two occasions they reduced your conversations, at least two occasions they reduced your conversations to typewritten notes?

A Yes.

Q And you have been asked this question by Mr. Rosenberg and several other counsel, correct?

A Yes.

Q And you have been shown Government's Exhibit 3567 before, have you not?

Would you like to look at it again?

A No, it's all right.

Q Have you been shown Government's Exhibit 3568, and let me show it to you, for identification. Starting here to this.

Are these also notes that were made by the agents after they had had a conversation with you?

A Yes.

Q Were you shown these yesterday?

A Yes, I believe so.

Q And you testified yesterday with the exception of an automobile, I think, and I believe the spelling of several names, that these notes were accurate, they were correct, is that true?

A Yes, but there is an explanation and I tried to give the explanation a few times already and I was denied.

MR. DOWD: I would move it be stricken then as not responsive.

THE COURT: Answer it yes or no. Explanations come out, if need be, on direct. Just answer the question.

Q In other words, yesterday you did testify that these notes were correct?

A Yes.

Q In either of these two sets of notes did you ever describe or tell to the agents, in respect to these

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teo sets of notes, about the transaction in the spring of
1972 with Mr. Russo.

A I don't recall.

Q Take a look at these, Mr. Pannirello, starting
here and going to the end, and see if that refreshes
your recollection.

MR. PHILLIPS: Refrshes his recollection
as to what?

Q As to whether or not at least these two
meetings you did not discuss with the agents an alleged
transaction with Mr. Francis Russo in the spring of
1972?

A I don't see anything about it.

Q These are about 30 pages of notes, corresponding
to your conversations with Agent Nolan or Moore on
at least two occasions?

A Yes.

Q And there is no mention of spring, '72 in
these notes?

A Correct.

Q You did tell Agent Nolan that there was a
dry spell in respect to narcotics from February to June,
1972, did you not?

A Yes.

Q Meaning there were no drugs available, correct?

A Correct.

Q And you told him again on the next page of the notes?

A Correct.

Q That you were told by Carmine that there was nothing around during this period?

MR. SIEGAL: State who Carmine is.

Q Carmine Pugliese.

You told him on the next page that Carmine Pugliese told you and Pat Dilacio --

MR. PHILLIPS: I object to Mr. Dowd reading from an exhibit not in evidence.

MR. DOWD: I am not reading from it.

THE COURT: Let him formulate his question. Go ahead.

Q Again during the conversation, during this period from February to June, Carmine Pugliese told you that there were no drugs around, only garbage, is that correct?

A Yes.

Q And later in the conversation you told the agent, after the dry spell began in the end of February

1 that Pat told you he was going to try to locate another
2 source but nothing ever came of it; you told him
3 that, did you?
4

5 A Yes.

6 Q And you said later on that this dry spell didn't
7 end until September, 1972, didn't you?

8 A Yes.

9 Q So in the spring of 1972 you weren't able to
10 get any drugs, were you?

11 A I don't recall.

12 Q You don't recall?

13 A No.

14 Q -- At this point do you still recall the in-
15 cident, the alleged transaction with Mr. Russo in the
16 spring of 1972?

17 A Yes.

18 Q Do you still recall the conversation that you
19 had with him concerning the goods at Pat Dilacio's apart-
20 ment?

21 A Yes.

22 Q Do you still recall the conversation that you
23 had with him when he returned the goods?

24 A Yes.

25 Q You have told us earlier and you told other

counsel, before you agreed to cooperate you told the agents and the government officials the truth in respect to this matter, in respect to this case, the incidents that you have described in your direct testimony, correct?

A Yes.

Q Do you also remember being interviewed and debriefed by agents at a time when there was a tape recorder being used?

A Yes.

MR. DOWD: Your Honor, I don't know whether that has been marked. It is a transcript we received last evening. I don't know even that the government has a copy yet. It is entitled "Harry Pannirello, Part 2."

MR. ENGEL: May it be marked as Government's Exhibit 3569B for identification.

(Government's Exhibit 3568B was marked for identification.)

Q Do you remember at that time being asked questions about an alleged transaction during an interview at which there was a tape recorder being used, being asked questions by one of the agents about an alleged transaction in the spring of 1972?

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H. Pannirello-cross

2519

A I don't recall.

Q Do you remember telling the agent that you had never talked to Francis Russo?

MR. PHILLIPS: Objection to the form of the question.

THE COURT: I will permit it.

Q Do you.

A Can you repeat that question.

Q Do you remember telling an agent, during the interview at which a tape recorder was used, that you had never talked to Francis Russo?

A No, I don't recall that.

MR. DAND: Your Honor, referring to page

3 --

THE COURT: I don't have it so I can't refer to anything?

MR. PHILLIPS: It is also not in evidence.

THE COURT: I know that.

Let me see a copy.

5B

Q Mr. Pannirello, I show you page 3 of Court's Exhibit 3569-B --

MR. PHILLIPS: It is a government's exhibit.

Q -- for identification, and refer you to the top of the page and then where it says "Pan" for Pannirello, and ask you if that refreshes your recollection?

A Yes.

Q And it is true you told the agent you never talked to Francis Russo, correct?

A Yes.

Q You told the agent you never made a deal with Francis Russo, you yourself?

A Yes.

Q Was that true?

A Yes.

Q Then the testimony that you gave us yesterday about a conversation that you were part of that you had with Francis Russo was a lie, is that true?

A No.

Q But you will agree that you did tell the agent you never talked to Francis Russo, you never made a deal with Francis Russo, and that is the truth, correct?

A Yes.

THE COURT: Why don't you finish it.

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H.Pannirello-cross

2 Q Was that the truth when you told the agent?

3 A Yes.

4 Q Is that truth now?

5 A Yes.

6 Q And you never had the conversation with Francis
7 Russo that you described yesterday in your direct examina-
8 tion; is that not true?

9 A I did.

10 Q Let me show you Government's Exhibit 3569-B
11 again and ask you to review page 2, page 3, page 4. Take
12 a look at it, Mr. Pannirello, see if that refreshes your
13 recollection about whether you were talking about a time
14 when you allegedly, when allegedly Mr. Russo got a half-
15 kilogram of heroin and returned it because there was a hassl
16 about it, the guy he was going to give it to couldn't get
17 the money, something like that.

18 Does that refresh your recollection?

19 A Yes.

20 Q That is the incident you described as happening
21 in the spring of 1972, isn't it?

22 A Yes.

23 Q The same incident you testified about on your
24 direct examination?

25 A Yes.

1 kp3 H.Pannirello-cross

2 Q So what you are trying to say to us now, Mr.
3 Pannirello, is that anything you know about Francis Russo,
4 at best, someone else told you, correct?

5 A No.

6 Q Let me get it crystal clear in my mind, Mr. Russo,
7 and I will ask you just a few more questions.

8 You admitted that the conversation which you have
9 just looked at in the transcript marked Government's Exhibit
10 for identification 3569-B, refers to the incident you
11 described, the alleged transaction with Mr. Russo in the
12 spring of 1972, correct?

13 A Yes.

14 Q — And you admit that you said at that time that
15 you never talked to Mr. Russo, you never made any deal
16 with Mr. Russo?

17 A I never talked to Mr. Russo and I never made a
18 deal with Mr. Russo, that is what you are saying, right?

19 Q I am saying, Mr. Pannirello, that you admitted
20 that you said to the agents when they interviewed you with
21 a tape recorder present in respect to this incident in
22 the spring of 1972, you told the agent you never talked to
23 Mr. Russo, you had never made a deal with Mr. Russo?

24 A Yes, I didn't make the deal personally with Mr.
25 Russo.

kp4

H.Pannirello-cross

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Q And you didn't talk to Mr. Russo?

3

A Yes, I spoke to Mr. Russo.

4

Q In other words, when you told the agents you didn't speak to him, you were lying to the agents?

6

A I might have been confused at the time.

7

Q You might have been confused?

8

A Yes.

9

Q Were you also confused about the dry spell that took place from February to September, 1972, when no drugs were available?

12

A Yes.

13

Q You were also confused about that?

14

A -- Yes.

15

Q By the way, after you were arrested in September of 1972, did you go to Frank Russo for help?

17

A No.

18

Q Did you call him?

19

A No.

20

Q Did he turn his back on you?

21

A I was never in touch with him.

22

Q You were never in touch with him?

23

A No.

24

Q So you have no reason to hurt Mr. Russo, do you, you are not angry with him, are you?

25

kp5

H.Pannirello-cross

A I am angry with everyone right now.

Q Everyone?

A Yes.

Q Everybody in the courtroom?

A Not in general, no.

MR. ELLIS: I didn't hear that answer.

MR. DOWD: He said generally.

MR. PHILLIPS: He said generally no.

THE COURT: What did you hear, Mr. Reporter?

(Read back.)

Q You told the agent it was the truth when you were interviewed that there was a dry spell from February to September, 1972, didn't you?

A At the time I thought it was the truth.

Q You thought it was the truth then?

A Yes.

Q When you said you never talked to Francis Russo, did you think that was the truth when you said it?

A Yes.

Q But right now you are trying to help yourself in your New Jersey case, is that right, by testifying?

A Yes.

Q You didn't testify about this before the grand jury in October of 1973 and you didn't testify about it

1 kp6

H.Pannirello-cross

2 before the grand jury in December of 1973, but you did
3 testify about this alleged transaction in the spring of
4 1972 yesterday on direct examination, correct?

5 MR. PHILLIPS: Objection. It is repetitious,
6 your Honor. It has been asked and answered four or five
7 times.

8 THE COURT: I know it has. All right. Go ahead
9 and answer the question.

10 A I am sorry, can you repeat that?

11 THE COURT: Let the reporter repeat it.

12 (Question read.)

13 A Correct.

14 Q In other words, your recollection of what
15 happened in the spring of 1972 is better now than when you
16 talked to the agents during last summer of 1973 or when you
17 had the tape-recorded interview with the agents, is that
18 correct?

19 A Yes.

20 Q Is it getting better as you get closer to the
21 time of your sentence in the New Jersey case?

22 A No.

23 Q When you had your discussions with Mr. Phillips
24 or any agent of the government, did they also tell you
25 that they couldn't help you unless you could offer them

1 kp7 H.Pannirello-cross

2 some evidence or some testimony which would assist them in
3 their case?

4 A I don't recall them saying that.

5 Q I mean, part of the bargain was, your testimony
6 had to be of some value to the government, correct?

7 A I imagine so.

8 Q And you had your interviews with Mr. Phillips
9 after your interviews with the agents, correct?

10 A Yes.

11 Q So you understood at the time you talked to Mr.
12 Phillips that in order for you to get consideration from
13 Mr. Phillips, your testimony would have to be of value
14 to the government, right?

15 A Yes.

16 Q One way to make it more valuable would be to lie
17 about Mr. Russo in the spring of 1972, correct?

18 A No.

19 Q You have just been confused up to this point?

20 MR. PHILLIPS: Objection.

21 THE COURT: It is argumentative.

22 Q Yesterday your mind cleared about all of the
23 things that happened in the spring of 1972, is that correct?

24 MR. PHILLIPS: Objection.

25 MR. DOWD: I don't think that is argumentative.

kp3

H.Pannirello-cross

THE COURT: I will allow it.

A Can you repeat that question?

Q Yesterday your mind cleared about all the events of spring of 1972?

A No, not yesterday.

Q Shortly before that?

A Quite a bit before that.

Q But certainly after you talked to the agents last summer?

A Yes.

Q In effect, Mr. Pannirello, aren't you really willing to get on the stand and lie about Mr. Russo if you think you could save yourself?

THE COURT: Sustained.

MR. PHILLIPS: There is no objection from the government.

MR. DOWD: He has no objection.

THE COURT: All right, go ahead and answer it.

A No, I wouldn't get on the stand and lie, no.

Q You consider yourself an honorable man?

MR. PHILLIPS: Objection as argumentative.

THE COURT: I will sustain it.

Q Frank Russo never hurt you, did he?

A No.

1 kp9

H.Pannirello-cross

2 Q Did his family hurt you?

3 A No.

4 Q His wife hurt you?

5 A No.

6 Q His mother hurt you?

7 A No.

8 Q His grandmother that lived next door to you, she
9 didn't hurt you?

10 A No.

11 Q So you really have no reason to be angry with Mr.
12 Russo?

13 A Correct.

14 Q To get even with him so the only motive you could
15 have would be saving your own skin?

16 MR. PHILLIPS: Objection.

17 MR DOWD: No further questions.

18 THE COURT: All right, ladies and gentlemen, it
19 is time for lunch.

20 The marshals will take the jury out.

21 (Jury left the room.)

22 THE COURT: Is that your idea of ten minutes?

23 MR.DOWD: The extra time, your Honor, was con-
24 sumed in him reviewing his own notes.

25 THE COURT: Ten minutes after two.

1 kpl0

H.Pannirello

2 MR. PHILLIPS: Your Honor, I think there is only
3 one or two more counsel that are going to cross-examine.

4 THE COURT: Mr. Lopez, do you expect to be long?

5 MR. LOPEZ: No.

6 THE COURT: Are you going to tell me ten minutes
7 and go to fifty?

8 MR. LOPEZ: About a week.

9 MR. PHILLIPS: Under those circumstances, your
10 Honor, I would like to take the opportunity to talk to Mr.
11 Pannirello before redirect examination.

12 THE COURT: No. At least not now.

13 Be back here at ten minutes after two. I give
14 you a little extra time, don't abuse it.

15 (Luncheon recess.)

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A F T E R N O O N S E S S I O N

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2.55 P.M.

4

(In open court.)

5

H A R O L D P A N N I R E L L O, resumed.

6

CROSS EXAMINATION

7

BY MR. LOPEZ:

8

Q Mr. Pannirello, my name is Frank Lopez.

9

I represent Joseph Di Napoli.

10

Now, I believe you told Mr. Rosenberg that the
February, 1973, transaction of drugs was going to be your
last transaction; is that correct?

13

A Yes.

14

Q You didn't tell any of your partners this, did
you?

16

A No.

17

Q Having involved your brother, John Pannirello,
in drugs, you didn't tell him that either?

19

A No.

20

Q Having involved your brother-in-law, Jimmy
Provitero, you didn't tell him that either?

22

A That's correct.

23

Q As far as your partner, Pat Dilacio, was concerned
you didn't mention that?

24

25

A That's right.

hp2

Pannirello-cross

Q As far as your supply is concerned, Carmine Pugliese, you didn't tell him anything about that either?

A That's correct.

Q You were going to be through with drugs after February, 1973, the last transaction; is that right?

A Yes.

Q You didn't mind if other people sold drugs for you as long as they brought you money, did you?

A I wasn't going to have anything at all to do with it after that.

Q Didn't you go to Pat Dilacio after you were arrested and tell him, "Hey, you, sell your car, move a package, sell narcotics, but bring me money"? Did you tell him that?

A Yes.

Q Tell the jury when that was.

A After I was arrested.

Q After February?

A Yes.

A After February, 1973. After you had made the firm determination you weren't going to sell drugs; is that correct?

A Yes.

Q You were here on two occasions in the grand jury;

1 hp3

HPannirello-cross

2 is that correct?

3 A Yes.

4 Q Do you remember the dates when you appeared, as
5 far as this case was concerned, before a federal grand jury?

6 A In October and in December.

7 Q October 2, 1973, isn't that right?

8 A Yes.

9 Q Help us out, as far as this grand jury is
10 concerned. It's a body of jurors, is that correct, 23
11 people or something like that?

12 A Yes.

13 Q You had Mr. Phillips in there with you?

14 A Yes.

15 Q There weren't any defense lawyers there asking
16 you any questions, were there?

17 MR. PHILLIPS: Objection.

18 THE COURT: Sustained.

19 Q Mr. Phillips was the only one asking you question
20 is that right?

21 A Yes.

22 Q When you appeared on October 2, 1973, before
23 the grand jury, did you tell that grand jury that you had
24 been receiving drugs from Carmine Pugliese for the last
25 several years? Did you tell them that?

hp4

H.Pannirello-cross

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2 A I don't recall saying that.

3 Q I show you Government's Exhibit 3565, and I ask
4 you to look at page 2. Does that refresh your recollection?

5 A Yes.

6 Q Did you tell the grand jury under oath that for
7 the last several years that you had been dealing with Carmine
8 Pugliese?

9 A Yes.

10 Q You swore to that, didn't you?

11 A Yes.

12 Q It wasn't true?

13 A No.

14 Q Then you spoke with Mr. Phillips; is that
15 right?

16 A Yes.

17 Q You told something to Mr. Phillips, is that
18 right?

19 A Yes.

20 Q And maybe he mentioned something to you?

21 A Yes.

22 Q And you went back to the grand jury, isn't that
23 correct?

24 A Yes.

25 Q Do you remember now telling the grand jury that

1 hp5 H.Pannirello-cross

2 your testimony of a few moments ago, you wanted to change?

3 Do you remember that?

4 A Yes.

5 Q And you did change it, didn't you?

6 A Yes.

7 Q You told them it's not so, that "I was dealing
8 for the last several years with Carmine Pugliese," isn't
9 that correct?

10 A Yes.

11 Q And this was after a conversation with Mr.
12 Phillips?

13 A Yes.

14 Q That's right, isn't it?

15 A Yes.

16 Q You testified here on February 14, 1974, a few
17 days ago, isn't that right?

18 A Yes.

19 Q And during the course of that testimony of that
20 day, Mr. Phillips was asking you a couple of questions, wasn't
21 he? Many questions, as a matter of fact.

22 A Yes.

23 Q These questions didn't surprise you, did they?

24 A No.

25 Q You had gone over those questions with Mr.

2 Phillips?

3 A Yes.

4 Q Days in and days out you went into these questions
5 with Mr. Phillips, isn't that right?

6 A Yes.

7 Q He put the question to you and you would give
8 him the answer, isn't that right?

9 A Yes.

10 Q So you knew what Mr. Phillips was going to ask
11 you, didn't you?

12 A Yes.

13 Q Nothing caught you by surprise, did it?

14 A No.

15 Q And just about the time Mr. Phillips asked you,
16 did you know Joseph Di Napoli, you heard an objection from
17 somewhere on the righthand side of the room, didn't you?

18 A Yes.

19

20

21

22

23

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2 Q You got the idea I was Joe DiNapoli's lawyer,
3 didn't you?

4 A Yes.

5 Q And then you were asked two questions, Mr.
6 Pannirello, "Do you see Joseph DiNapoli in the courtroom?"
7 and you looked around, is that right?

8 A Yes.

9 Q And you didn't see Joseph DiNapoli, is that
10 right?

11 A Yes.

12 Q But he was there, wasn't he?

13 A Yes.

14 Q And then Mr. Phillips said to you, "Don't you
15 see someone that resembles Mr. DiNapoli"? You were
16 asked that question, weren't you?

17 A Yes.

18 Q You looked around again, didn't you?

19 A Yes.

20 Q You saw me on my feet again making objection,
21 didn't you?

22 A Yes.

23 Q And you couldn't identify Joseph DiNapoli, is
24 that correct?

25 A Yes.

1 hpa

H. Pannirello-cross

2537

2 Q Then some time later, if you recall, before the
3 afternoon break, you were asked to identify Butch Ware,
4 weren't you?

5 A Yes.

6 Q And you did identify Butch Ware, didn't you?

7 A Yes.

8 Q And you went right over there to where Mr.
9 DeNapoli was, isn't that correct?

10 A Yes.

11 Q Get off the stand and go where Butch Ware is,
12 would you. Would you do that?

13 A That's him right there (indicating).

14 Q Please resume the stand. Did you know that
15 Butch Ware was seated there ahead of time?

16 A No.

17 Q You had to look around, is that correct?

18 A Yes.

19 Q And seated only a couple or a few feet away from
20 Mr. Ware was Mr. Dillapoli at the counsel table, isn't
21 that right?

22 A Yes.

23 Q Did you recognize Mr. Dillapoli then?

24 A I don't recall.

25 Q You don't even recall if you saw him there?

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H. Pannirello-cross

2538

A No.

Q Are you telling us he wasn't in the courtroom?

A No.

Q But you didn't recognize him, isn't that correct?

A No.

Q And of course you are going to tell us that during the course of the afternoon you finally recognized Mr. DiNapoli after you said you couldn't locate him, isn't that right?

A Yes.

Q And all during that afternoon, during the recess and after the recess until about 5:15, you were being asked questions about Joseph DiNapoli, isn't that right?

A Yes.

Q And all during that afternoon, during the recess and after the recess until about 5:15, you were being asked questions about Joseph DiNapoli, isn't that right?

A Yes.

Q Did you at any time during the recess in the afternoon say, "Hey, Mr. Phillips, I have made a mistake"? Did you call for Mr. Phillips during the afternoon re-

1 hpa

H. Pannirello-cross

2539

2 cess?

3 A No.

4 Q You didn't speak to Mr. Phillips?

5 A No.

6 Q And you came back here and you answered more
7 questions about DiNapoli, isn't that right?

8 A Yes.

9 Q And you didn't identify DiNapoli or call it
10 to Mr. Phillips' attention while you were answering questions
11 about Joseph DiNapoli, is that right?

12 A Yes.

13 Q Then something happened, after 5:15, isn't
14 that right?

15 A Yes.

16 Q You sent a message to Mr. Phillips, "I got to
17 see you," is that right?

18 A I believe so.

19 Q Did you send it to him in writing?

20 A I don't recall.

21 Q You don't recall --

22 A I don't recall mentioning that I sent a
23 message to Mr. Phillips.

24 Q But you don't know why you did it or you did
25 it at all?